IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 15-06-2007

Coram:

THE HONOURABLE MR. JUSTICE DHARMA RAO ELIPE
AND
THE HONOURABLE MR.JUSTICE S.PALANIVELU

Writ Petition No.14095 of 2003
WPMP No.17649 of 2003

National Federation of Indian Women,
Tamil Nadu Council, rep. by its
General Secretary, Mrs.K.Santhakumari,
No.19, Chevalier Shivaji Ganesan Salai,
T.Nagar, Chennai-600017. .. Petitioner

Versus

1. Government of Tamil Nadu,
rep. by its Secretary,
Home Department,
Secretariat, Chennai-600 009.

2. The Director General of Police,
Kamarajar Salai,
Chennai-600 004.

3. The Press Council of India,
rep.by its Chairman,
New Delhi. .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, for the reliefs as stated therein.

For Petitioner : Mrs.Santhakumari,Party-in-person
For Respondents : Mr.K.Balakrishnan, AGP-R1&R2
No appearance for R3

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ORDER

(Order of the Court was delivered by
DHARMA RAO ELIPE, J.)

This Writ Petition has been filed praying for the issuance of Writ of Mandamus, to direct the respondents to

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immediately ban publication of photographs and details in the newspapers, journals and magazines of women who are rape victims.

2. The petitioner, who is a General Secretary of the National Federation of Indian Women, Tamil Nadu Council, has filed the above said probono publico. It is stated that the above said association is a National Organisation of Women engaged in the service of working for protecting the rights and interests of women and their social upliftment and it is working for the last 48 years. It was started by freedom fighters, Aruna Asaf Ali and Kalpana Dutt. The organisation has taken genuine interest in women and has espoused the cause of many a woman in distress.

3. The present writ petition has been filed against the derogatory press publication of photographs and details of a women who are victims of rape in the state of Tamil Nadu. It is stated that among women who are subjected to the sexual assault of rape, only a small percentage would come forward to give complaint against the culprit to the police, others are not coming due to social constraints. It is further stated that if women are discouraged by any means from coming forward to give complaints in cases of rape, the culprits will go unpunished and the society will suffer in the long run.

4. It is stated that many newspapers circulating in Tamil Nadu publish the photographs and details of those women who were the victims of the heinous crime of rape and who come forward to lodge the complaints against the culprits, which causes great hardship to the victims and it would reduce the chances of victims in getting married and their families are being subjected to social ridicule and they are put to great embarrassment and humiliation. Therefore, it is submitted that such publications of the photographs along with details of the victims of the rape in newspapers, journals and magazines are derogatory, unwarranted and undesirable which would offend the valuable right to decent living guaranteed by the Constitution of India. Hence, the present writ petition is filed praying this Court to order for ban of such publications.

5. A counter affidavit has been filed on behalf of the respondents. It is stated that the Director General of Police has issued strict instructions to the respective Commissioners of Police in cities and Superintendents of Police in Districts to stop permitting women victims of violence being photographed and any deviation in this regard will be viewed seriously. The concerned police officials are taking all

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steps not to publish the photographs of the rape victims in newspapers and they are also collecting every evidence to punish the culprit by the competent courts. It is further stated that the crime under Section 376 is grave in nature and any complaint received by the police, is immediately informed to the higher authorities, namely, Superintendent of Police in the District and Commissioner of Police in the cities. The higher officials immediately arrest the concerned who is real culprit and take action against him. It is further stated that the Director General of Police, Chennai has also issued a Circular, dated 15.7.2002 to the Commissioner of Police in cities and Superintendents of Police in districts to stop permitting women victims of violation of being photographed. After this circular, so far no specific complaint has been received stating that the women victims have been photographed and the procedure is strictly followed. If any such complaint received or such cases are reported to the Government or higher police officials, very serious action will be taken against the erring police officials. It is further stated that no photographer or videographer is allowed to take photographs or video of victims after instructions of the Director General of Police. The Police Officials are very careful in not permitting the press people to take photographs. It is submitted that the grievance of the petitioner has already been considered by the government and necessary instructions by way of Circular were given and they are implementing the same.

6. The learned Addl.Government Pleader appearing for the respondents, produced a copy of the relevant Circular, dated 15.7.2002 issued by the Director General of Police, Chennai. It is worthwhile to refer the said Circular, which reads as under:

"Circular Memorandum"

Sub: Photographs of rape victims displayed in the media - instructions issued.

The need to protect the identity of rape victims from the glare of the media and Police eye has been repeatedly emphasized in various forums regarding crimes against women. Proceedings in Courts are also directed to be conducted in "Cameras".

2. The media indulges in perverse sensationalism while displaying the photograph of the women brutally violated. It is to be severely condemned and stopped. But the police that is mandated to safeguard the dignity of women being a party to it and

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permitting it cannot be condened on any account. It is easy for the police to stop such photographs being taken. Still the police personnel lack of sensitivity and humanity to abide by basic civilized norms.

3. It was disturbing to see a news report, where the 'even' of the compensation paid to rape victims who were all called en masse was photographed and reported. The Chairperson, Tamil Nadu State Commission for women, Chennai has expressed her deep anguish in the matter. While the move might have been well intentioned, the victims received unnecessary Publicity which could have been avoided by delivering the compensation amount in the residence of the victim or in the office chambers.

4. The Commissioners of Police in cities and Superintendents of Police in districts are hereby instructed to strictly stop permitting women victims of violence being photographed. The instructions should be scrupulously followed. Any deviation in this regard will be viewed very scrupulously."

7. A reading of the above Circular makes it clear that necessary instructions were given to all the police officials in the State to strictly stop permitting women victims of violence being photographed.

8. In "Dinesh alias Buddha Versus State of Rajasthan (2006) 3 SCC 771", the Hon'ble Supreme Court, while dealing with a case in which, the accused was alleged to have committed rape on an eight year old girl, had an occasion to deal with the issue regarding restriction in printing and publishing the name or any matter which may make known the identity of a person against whom a sexual offence is alleged or found to have been committed. It is held in para 7 as under:

"7. ... Section 228-A IPC makes disclosure of the identity of the victim of certain offences punishable. Printing or publishing the name or any matter which may make known the identity of any person against whom an offence under Sections 376, 376-A, 376-B, 376-C or 376-D is alleged or found to have been committed can be punished. ..."

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Therefore, in order to not to make known the identity of the person against whom a sexual offence is alleged or found to have been committed and having regard to Section 228-A IPC, the Courts including the Hon'ble Supreme Court felt it appropriate not to indicate the name of the victim even in the judgments though the restriction does not relate to printing or publication of judgment by them and instead of indicating the victim by name, the Courts would choose to describe her as 'victim'. Therefore, when Section 228-A IPC has been enacted keeping in view the social object of preventing social victimisation or ostracism of the victim of a sexual offence, publishing the photographs of such victims in newspapers, journals and magazines would certainly fall under the category of making disclosure of the identity of the victim and thereby such act would fall under Section 228-A IPC. Therefore, if the petitioner comes to the knowledge of such publication of photographs of the victims of sexual offence in newspaper, journals, magazines or electric media, the petitioner can very well invoke the above said provision or can bring to the knowledge of the Police Officials and see that the concerned should be punished.

9. This Writ Petition has been pending from the year 2003, however, despite notice, the third respondent has not made any appearance through its counsel. Therefore, while disposing the writ Petition, we feel it appropriate to direct the respondents to take necessary action to see that the photographs and details of the victims of the sexual offences should not be published in the newspapers, journals magazines and electric media. It is further directed that the Circular, dated 15.7.2002 issued by the Director General of Police, Chennai, should be implemented by all the Police Officials in the State in letter and spirit.

With the above direction, this Writ Petition is disposed of. No costs. Consequently, WMP is closed.

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Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1. The Secretary,
   Government of Tamil Nadu,
   Home Department,
   Secretariat, Chennai-600 009.

2. The Director General of Police,
   Kamarajar Salai,
   Chennai-600 004.

3. The Press Council of India,
   rep.by its Chairman,
   New Delhi.

+1cc to M/s.K.Santhakumari, Party in Person, SR 35261
+1cc to Govt. Pleader Sr 35302

MA (CO)
km/3.7.

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